dicta in a number of previous cases, *McDonald* v. *Mass. Gen. Hospital* (1876) 120 Mass. 432; *Union Pac. Ry.* v. *Artist* (1894) 60 Fed. 365; *Van Tassel* v. *Manhattan Hospital* (1891) 15 N. Y. Supp. 621, is a logical application of the first doctrine outlined above [of the absolute inviolability of trust funds], and the case is especially interesting because of the recognition by the court of the distinction not seen in *Downes* v. *Harper Hospital*, supra, between corporate negligence and that of servants. The reasoning of the court would go so far as to exempt a charity from liability for all torts of whatever nature. In Michigan the *Downes* case has been expressly limited by an application in a recent decision of the rule laid down in *Powers* v. *Mass. Hom. Hospital*, supra. *Bruce* v. *Central etc. Church* (1907) 110 N. W. 951. It was held that a charitable institution was liable to the employee of a contractor for an injury caused by a defect in a scaffold furnished by the institution. The court determines "that the principle of non-liability recongized in the *Downes* case is limited in its application to those who are beneficiaries of a charitable trust." The situation in Michigan would, therefore, seem to be that a corporation is exempt from all liability, to a beneficiary, in tort, but liable in all cases to third parties. All three cases are especially interesting as involving the question of the exemption of charitable corporations from duties, a failure in which would ordinarily constitute corporate negligence. See Burdick on Torts 115, 116. The result reached in the Missouri case in holding the corporation exempt in such a case is directly supported in the United States only by the *Downes* case and its theoretical basis, the inviolability of charitable trust funds, has been successfully assailed. *Powers* v. *Mass. Hom. Hospital*, supra, 300 et seq.; see 1 COLUMBIA LAW REVIEW 485; 9 Harv. Law Rev. 543. Discarding the unlimited rule of this case and even the narrower rule of the Michigan courts, and adopting the general theory advanced by the *Hearns* case and applied by the first principal case, that the exemption is based on an exception to the rule of respondent superior, *Corbett* v. *St. Vincent's School*, supra (semble); see 1 COLUMBIA LAW REVIEW 485; 12 Harv. Law Rev. 128, the question still remains whether the further limitation derived from Lowell's opinion shall be applied; or shall a charitable institution, like a government body, be exempt to a third person as well as to a beneficiary for the personal negligence of servants. The only case, *Fire Ins. Patrol* v. *Boyd*, supra, directly answering this question in its opinion was one where the institution was admittedly a governmental body and therefore is not authoritative. The intimations in other cases seem to favor the limitation.

APPLICATION OF INSURANCE MONEY TO INTEREST ON MORTGAGE.—In view of the generally recognized rule that the proceeds of insurance effected by the mortgagor for the benefit of the mortgagee take the place of the security, *Gordon* v. *Ware Savings Bank* (1874) 115 Mass. 588; *Connecticut Insurance Co.* v. *Scammon* (1880) 4 Fed. 263; *Fergus* v. *Wilmarth* (1886) 117 Ill. 542; *Naquin* v. *Texas Investment Association* (1902) 95 Tex. 313, the question raised by a recent case in Vermont is an interesting one. A $1200 mortgage for six years at 6 per cent. was given on property insured by the mortgagor for the benefit of the mortgagee. The first year's interest was paid, and shortly thereafter, on a partial

loss by fire, $247.50 was paid to the mortgagee by the insurer. The residue of the property, after the fire, was not adequate security for the mortgage. The mortgagor having failed to pay the second annual interest, the mortgagee brought suit to foreclose the entire mortgage. The mortgagor claimed that the insurance money should be applied to pay this installment of interest, which application would leave nothing due on the mortgage, and hence would prevent foreclosure. But the mortgagee claimed that he should be allowed to hold, as trustee, the insurance money, as collateral, until the maturity of the debt; or he was willing to waive his right not to be compelled to receive partial payments before the maturity of the debt and apply this money directly to the reduction of the interest-bearing principal. It was apparent that if the mortgagor's claim were to be allowed in this case, the interest as it fell due during the five years until the principal was payable might exhaust this fund of $247.50, so that at the end of that time the security would be as much depreciated in value as if no insurance at all had been placed on the property by the mortgagor—an application of the insurance money that would hardly be said to be "for the benefit of the mortgagee." The decision, however, was in favor of the mortgagor's right to such application, and the petition for foreclosure was dismissed. *Thorp* v. *Croto* (1907) 65 Atl. 562.

The court relied on the doctrine that "the mortgagee, receiving money on a fire insurance policy procured by the mortgagor for his benefit, must apply that money on the debt as it falls due." See 19 Cyc. 885; Thomas, Mortgages, 2nd ed., § 555; 1st ed. p. 180; Jones, Mortgages, §§ 409, 1136, and cases cited. Though this statement is true, it should be noted that the security, in whatever form it may be, such as the proceeds of insurance or of condemnation, *Brooks* v. *Hubbard* (1901) 73 Vt. 122, cannot properly be applied to the payment of the debt until the *maturity of the principal*, as is indicated by the fact that the cases cited by the court or elsewhere in support of its doctrine are all of them instances of the application of insurance money or other collateral on the mortgage debt only after maturity of the principal. *Hunt* v. *Nevers* (1834) 15 Pick. 500; *Concord Insurance Co.* v. *Woodbury* (1858) 45 Me. 447; *Stinchfield* v. *Milliken* (1880) 71 Me. 567; *Prouty* v. *Eaton* (1863) 41 Barb. 409; *Waring* v. *Loder* (1873) 53 N. Y. 581; *Lewis* v. *Jewett* (1879) 51 Vt. 378; *Insurance Co.* v. *Marshall* (1892) 48 Kan. 235. Therefore the doctrine adopted by the court seems to have no application to the principal case.

Since the interest, if unpaid and allowed to accumulate until maturity, would be paid out of the security, it may be argued that the mortgagee is not injured by an application of the security to interest as it falls due. But forcing the mortgagee to such an application of the security clearly deprives him of the right given by the conventional clause—apparently invoked by the mortgagee in the principal case—that "on default in the payment of any installment of interest, the whole debt shall become due and payable and may be foreclosed at the option of the mortgagee"—the right, namely, to prevent, by timely foreclosure, more than one installment of interest being added to the debt which is secured by the mortgaged property, or, in other words, to prevent the application of the security to more than one installment of interest.

The interest of the mortgagee in the collateral security is simply that the ratio between his debt and the value of his security shall not be varied: that his debt shall not increase, nor his security diminish. One term of the ratio, the debt, is taken care of by this clause in the mortgage contract allowing of a check to its accumulation by a foreclosure as soon as interest begins to be defaulted. The other term of the ratio, the security, is kept constant by the law which prohibits the mortgagor from impairing the value of the mortgaged property as security. *Van Pelt* v. *McGraw* (1850) 4 N. Y. 110.

The principal case, then, looked at as allowing the mortgagor to apply the insurance money on that which is not yet part of the principal debt on which the security may be applied, may be said to take away, to that extent, the legal right of the mortgagee that the mortgagor shall not waste the mortgaged property; or, looked at as allowing more than one installment of interest to be added to the principal debt, it is taking away the mortgagee's contract right to limit these additions to the debt to one installment of interest. The principal case, therefore, is a clear departure from the view that insurance money is to be regarded as taking the place of the security, in all respects.

Modern Extension of the Remedy of Injunction.—Since the days when Lord Hardwicke refused to enjoin the operation of a smallpox hospital because if it was a public nuisance the remedy lay by information, *Baines* v. *Baker* (1752) Ambler 158, and Turner, L. J., in the case of *Attorney General* v. *Sheffield Co.* (1852) 3 De G. M. & G. 304, 320, enunciated the oft reiterated principle that equity interferes by injunction only to protect property rights, the fabric of that doctrine has been pierced with exceptions especially in favor of the national and state governments of this country. It is believed that the following is a fairly representative analysis of the American cases not involving the violation of a property right, in which the jurisdiction by injunction at the instance of the State has been recognized independent of statute: To restrain corporations from committing ultra vires acts against the public interests, *e. g.*, charging more than the rates fixed by law, *Attorney General* v. *Ry. Cos.* (1874) 35 Wis. 425; purchasing a parallel or competing line, *L. & N. R. R.* v. *Commonwealth* (1895) 97 Ky. 675; *Penna. R. R.* v. *Commonwealth* (Pa. 1886) 7 Atl. 374; combining arbitrarily to raise the price of coal, *Stockton* v. *Central R. R.* (1892) 50 N. J. Eq. 52. To restrain the establishment of a millpond near a public schoolhouse, to the injury of the health of the school children. *Bell* v. *Blount* (N. C. 1826) 4 Hawks 384; *Attorney General* v. *Hunter* (N. C. 1826) 1 Dev. Eq. 12. To prevent the trustees of a state lottery from contracting in excess of their authority. *State* v. *Maury* (1851) 2 Del. Ch. 141. To restrain a sheriff from making an illegal sale of liquors. *Fears* v. *State* (Ga. 1897) 29 S. E. 463. To restrain the continuance of an illegal liquor saloon. *State* v. *Crawford* (1882) 28 Kan. 726. To prevent the occurrence of a prize-fight. *Columbian Athletic Club* v. *State* (1895) 143 Ind. 98; *State* v. *Hobart* (1901) 8 Ohio N. P. 246. To prevent a partisan Board of Elections from perpetrating election frauds. *People* v. *Tool* (Colo. 1905) 86 Pac. 224. The decision